

# EXHIBIT “B”

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING	)	
PHARMACY, INC.,	)	
_____	)	MDL NO. 2419
	)	CASE NO. 1:13-MD-2419 (FDS)
THIS DOCUMENT RELATES TO:	)	
	)	
ALL ACTIONS	)	
_____	)	

**DECLARATION OF YVONNE K. PUIG**

I, Yvonne K. Puig, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. My name is Yvonne K. Puig and I am currently a partner with the law firm of Fulbright & Jaworski L.L.P. in its Austin, Texas office and represent Saint Thomas West Hospital, formerly known as St. Thomas Hospital, Saint Thomas Network, and Saint Thomas Health (collectively referred to as the “Saint Thomas Entities”) in the above-captioned litigation. I make this declaration in support of the *Saint Thomas Entities’ Response to PSC’s Proposal for Plaintiff’s Fact Sheet and Records Authorizations*, to which this declaration is attached. I have personal knowledge of the facts set forth in this declaration, am over the age of 18 and am competent to testify to the facts as stated.

2. Attached to this declaration as Exhibit B-1 is a true and correct copy of an email I received from Ben Gastel on behalf of the Plaintiffs’ Steering Committee (“PSC”) in the above-captioned matter on January 24, 2014, at approximately 3:50 p.m. Central Standard Time.

3. Attached to this declaration as Exhibit B-2 is a true and correct copy of an email I received from Mark Chalos on behalf of the PSC on January 27, 2014.

Dated: January 31, 2014.

Yvonne K. Puig  
Yvonne K. Puig

# EXHIBIT “B-1”

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**From:** Ben Gastel [<mailto:beng@branstetterlaw.com>]

**Sent:** Friday, January 24, 2014 3:50 PM

**To:** Kristen Johnson Parker; Louis R. Moffa; Stephen A. Grossman; Eric Hoffman; Brett J. Bean; Brian Gerling; Christopher Hassell; Chris J. Tardio ; C. J. Gideon , Jr.; Cynthia Palin; Christopher M. Wolk; David Thomas; Jay J. Blumberg; Joseph R. Lang; John M. Lovely; John-Mark Zini; Jack Reinholtz; Kristin Mykulak; Kristen R. Ragosta ; Kenneth B. Walton ; Marcy Greer; Matthew H. Cline; Michael Hayes; C. Mark Hoover; Michael Gardner; Michael Pikiel; Louis Moffa; Michael Sams; Mary-Rose Watson; Nancy Reynolds; Nicole Dorman; Roberto Braceras; Steven Drake; Randy J. Hackney; Rhond L. Beesing; Paul Saltzman; Sean E. Capplis; Daniel Ari Shapiro; Tory Weigand; Yvonne Puig; Marcy Greer; Jay Blumberg ([jjblumberg@blumberglawoffices.com](mailto:jjblumberg@blumberglawoffices.com)); Puig, Yvonne K.; Sarah Kelly ([SKelly@nutter.com](mailto:SKelly@nutter.com)); 'lhollabaugh@babco.com' ([lhollabaugh@babco.com](mailto:lhollabaugh@babco.com)); Hoffman, Eric; Marcy Greer; Jay Blumberg ([jjblumberg@blumberglawoffices.com](mailto:jjblumberg@blumberglawoffices.com))

**Cc:** Thomas Sobol; Kimberly A. Dougherty; Mike Barker; Patrick T. Fennell; Gerard Stranch; Ben Gastel; Marc Lipton; Chalos, Mark P. ([mchalos@lchb.com](mailto:mchalos@lchb.com)); [mark@markzamora.com](mailto:mark@markzamora.com); Jennifer Frushour Bean; 'rellis@ellisrapacki.com'; 'gnolan@leaderbulso.com'; 'bleader@leaderbulso.com'; 'dclayton@kcbattys.com'

**Subject:** NECC Proposal and Trial Selection CMO

All,

Attached, please see the following:

1. A proposed CMO on trial and bellwether selection;
2. The Current Version of the PSC's Proposed Plaintiff Profile Form
3. The PSC's proposed releases to be used in conjunction with this form (medical, worker's comp, employment, insurance, and tax releases)
4. An updated version of the deposition protocol with changes accepted from the changes suggested by Saint Thomas.

With regard to the deposition protocol, this is redlined against the original version we sent and the additions/deletions are those that we added or accepted. Saint Thomas' version of the deposition protocol drastically changed the conduct of depositions under the Federal Rules of Civil Procedure. We believe the deposition protocol is merely meant to facilitate the taking of depositions in a uniform and coherent matter in this MDL and is not intended to change the conduct of depositions. As a result, we were simply unable to accept many of Saint Thomas' changes as they clearly were not consistent with the Federal Rules of Civil Procedure.

With regard to the medical release, the PSC's offer of December 12, 2013 still stands. To the extent that you will agree with the PSC's limitations in the release, then we will agree that production can be made directly to defendants in lieu of going through the HIPAA compliant vendor identified in the Court's Qualified Protective Order.

With regard to the profile form, we made some additional changes to the insurance/disability section to reflect the difference between being awarded benefits and receiving benefits.

We plan to submit these as part of our proposal to Judge Boal today per her order of January 7.

With regard to the CMO on trial selection and bellwether. We will hold a meet and confer on **Monday at 2:00 cst** on this document and propose that any competing proposals be filed no later than **January 31, 2014**. Call in information will be circulated at a later time.

Warmest Regards,

Ben

Ben Gastel  
Branstetter, Stranch & Jennings, PLLC  
227 Second Ave. N.  
Fourth Floor  
Nashville, TN 37061-1631  
P: 615.254.8801  
F: 615.255.5419

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# EXHIBIT “B-2”

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**From:** Chalos, Mark P. [mailto:mchalos@lchb.com]

**Sent:** Monday, January 27, 2014 9:17 AM

**To:** Marcy Greer; Ben Gastel; Kristen Johnson Parker; Louis R. Moffa; Stephen A. Grossman; Eric Hoffman; Brett J. Bean; Brian Gerling; Christopher Hassell; Chris J. Tardio ; C. J. Gideon , Jr.; Cynthia Palin; Christopher M. Wolk; David Thomas; Jay J. Blumberg; Joseph R. Lang; John M. Lovely; John-Mark Zini; Jack Reinholtz; Kristin Mykulak; Kristen R. Ragosta ; Kenneth B. Walton ; Marcy Greer; Matthew H. Cline; Michael Hayes; C. Mark Hoover; Michael Gardner; Michael Pikiel; Louis Moffa; Michael Sams; Mary-Rose Watson; Nancy Reynolds; Nicole Dorman; Roberto Bracerias; Steven Drake; Randy J. Hackney; Rhond L. Beesing; Paul Saltzman; Sean E. Capplis; Daniel Ari Shapiro; Tory Weigand; Yvonne Puig; Jay Blumberg (jjblumberg@blumberglawoffices.com); Puig, Yvonne K.; Sarah Kelly (SKelly@nutter.com); 'lhollabaugh@babco.com' (lhollabaugh@babco.com); Hoffman, Eric; Jay Blumberg (jjblumberg@blumberglawoffices.com)

**Cc:** Thomas Sobol; Kimberly A. Dougherty; Mike Barker; Patrick T. Fennell; Gerard Stranch; Marc Lipton; mark@markzamora.com; Jennifer Frushour Bean; 'rellis@ellisrapacki.com'; 'gnolan@leaderbulso.com'; 'bleader@leaderbulso.com'; 'dclayton@kcbattys.com'; Martin, Annika K.; Cabraser, Elizabeth J.

**Subject:** RE: NECC Proposal and Trial Selection CMO

Marcy – I'm writing on behalf of the PSC. With respect to a "discovery plan," the PSC believes that all the elements required to be addressed under Fed. R. Civ. P. 26(f) and Local Rule 16.1 are addressed in substance in the various filings, both proposed and previously filed, including the proposed PPF and medical authorizations, deposition protocol, ESI protocol, the two operative protective orders, proposed briefing schedule on the motions to dismiss and motion for summary judgment, and the proposed bellwether and pre-trial schedule. A number of the issues have also been discussed at length in status conferences, with various parties presenting their positions. So, other than raising it as a potential pro forma issue, what elements of a "discovery plan" do you believe remain substantially unaddressed? And, for those elements, we would welcome a proposal from your clients or anyone else, asap.

Thank you.

-Mark

**Lieff  
Cabraser  
Heimann &  
Bernstein**  
Attorneys at Law

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f 615.313.9965  
Lieff Cabraser Heimann & Bernstein, LLP  
150 Fourth Avenue North, Suite 1650  
Nashville, TN 37219-2417  
www.lieffcabraser.com



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**From:** Marcy Greer [<mailto:mgreer@adjtlaw.com>]

**Sent:** Saturday, January 25, 2014 7:21 AM

**To:** Ben Gastel; Kristen Johnson Parker; Louis R. Moffa; Stephen A. Grossman; Eric Hoffman; Brett J. Bean; Brian Gerling; Christopher Hassell; Chris J. Tardio ; C. J. Gideon , Jr.; Cynthia Palin; Christopher M. Wolk; David Thomas; Jay J. Blumberg; Joseph R. Lang; John M. Lovely; John-Mark Zini; Jack Reinholtz; Kristin Mykulak; Kristen R. Ragosta ; Kenneth B. Walton ; Marcy Greer; Matthew H. Cline; Michael Hayes; C. Mark Hoover; Michael Gardner; Michael Pikiel; Louis Moffa; Michael Sams; Mary-Rose Watson; Nancy Reynolds; Nicole Dorman; Roberto Bracerias; Steven Drake; Randy J. Hackney; Rhond L. Beesing; Paul Saltzman; Sean E. Capplis; Daniel Ari Shapiro; Tory Weigand; Yvonne Puig; Jay Blumberg ([jjblumberg@blumberglawoffices.com](mailto:jjblumberg@blumberglawoffices.com)); Puig, Yvonne K.; Sarah Kelly ([SKelly@nutter.com](mailto:SKelly@nutter.com)); 'lhollabaugh@babco.com' ([lhollabaugh@babco.com](mailto:lhollabaugh@babco.com)); Hoffman, Eric; Jay Blumberg ([jjblumberg@blumberglawoffices.com](mailto:jjblumberg@blumberglawoffices.com))

**Cc:** Thomas Sobol; Kimberly A. Dougherty; Mike Barker; Patrick T. Fennell; Gerard Stranch; Marc Lipton; Chalos, Mark P.; [mark@markzamora.com](mailto:mark@markzamora.com); Jennifer Frushour Bean; 'rellis@ellisrapacki.com'; 'gnolan@leaderbulso.com'; 'bleader@leaderbulso.com'; 'dclayton@kcbattys.com'

**Subject:** RE: NECC Proposal and Trial Selection CMO

Ben—we assume you did not expect us to provide any meaningful response to these documents before filing, as we received them only an hour before the Court's cut-off.

Although we plan to provide a fuller response, we note that Judge Boal's order did not address bellwethers or deposition protocols. While we are willing to meet and confer, we need to check schedules about Monday and note that this is the first time you've sent around your bellwether proposal, which Judge Saylor has essentially tabled until we get the discovery issues resolved. And we have yet to see any version of the discovery plan that the PSC has repeatedly promised and Judge Saylor has requested us to meet and confer about before the next status conference. We will let you know if Monday works for us, but in the meantime, can you please provide us with an ETA on the discovery plan?

Thanks!

Marcy

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**Sent:** Friday, January 24, 2014 3:50 PM

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